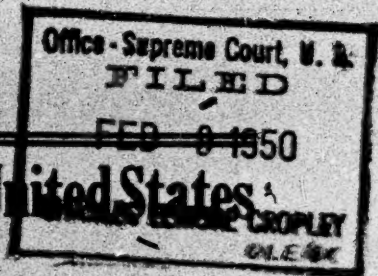


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SUPREME COURT, U. S.



**In the Supreme Court of the United States**

OCTOBER TERM, 1949.

No. 71.

71

**FEDERAL POWER COMMISSION,**  
*Petitioner,*

v.

**THE EAST OHIO GAS COMPANY, ET AL.,**  
*Respondents.*

**ON WRIT OF CERTIORARI  
TO THE UNITED STATES COURT OF APPEALS  
FOR THE DISTRICT OF COLUMBIA CIRCUIT.**

**MEMORANDUM IN SUPPORT OF PETITIONS  
FOR REHEARING SUBMITTED ON BEHALF  
OF THE ARIZONA CORPORATION COMMISSION,  
STATE OF ARIZONA, AMICUS CURIAE.**

**FRED O. WILSON,**  
*Attorney General of Arizona,*

**PERRY M. LING,**  
*Chief Assistant Attorney General,  
Attorneys for Said Commission,  
108 Capitol Building,  
Phoenix, Arizona.*

February , 1950.



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**TO THE HONORABLE SUPREME COURT OF  
THE UNITED STATES:**

Comes now the Arizona Corporation Commission, amicus curiae, by and through the Attorney General of the State of Arizona, and presents this memorandum in support of the petitions of the respondents for a

rehearing in the above entitled cause and as reasons thereof, respectfully represents:

1. The Arizona Corporation Commission, which is the State regulatory agency entrusted with the authority to control and regulate all State utility corporations operating in Arizona, has become greatly concerned over the far-reaching effect of the majority decision in this cause, which has or may in the future have the effect of rendering wholly ineffective present and future State commission regulations. Said Commission has therefore requested the Attorney General of Arizona to specifically present a request for a rehearing and reconsideration of this cause.

2. In discussing the Natural Gas Act and as a basis for the majority decision, the following statement is made:

"But what Congress must have meant by 'facilities' for 'local distribution' was equipment for distributing gas among consumers within a particular local community, not the high pressure pipe lines transporting the gas to the local mains."

After reviewing a number of cases decided prior to the enactment of the Natural Gas Act, the Court continues:

"Under these decisions state regulatory powers could not reach high-pressure trunk lines and sales for re-sale."



Based upon this premise and the conclusions that East Ohio is a "natural gas company" and that "transportation of natural gas in interstate commerce" is subject to regulation by the Commission, the Court concludes that the regulations proposed by the Commission are permissible, even though the State agency "would have equivalent authority."

The majority has thus turned its back upon recent decisions of this Court, and particularly *Panhandle Eastern Pipeline Company v. Public Service Commission*, 332 U. S. 507, 513, wherein in a unanimous opinion in December, 1947, this statement appears:

"Variations in main pressures are not the criterion of the state's regulatory powers under the commerce clause."

Accordingly, we now have established the principle of the case last cited that the regulatory power of the states has no relation to main pressures, while the instant case bases the regulatory jurisdiction of the Federal Power Commission on main pressures, even to the point where it is said that the state and federal regulatory bodies have "equivalent authority."

That such a result was not intended by Congress in enacting the Natural Gas Act is amply established by the history of the Act. All who are conversant with the history of the Act are agreed upon the proposition that Congress, in passing the Act, had no intention of supplanting state jurisdiction wherever it existed; and we